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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/976,481
Filing Date: October 12, 2001
Appellant(s): BUTZ, STEPHEN

Royal W. Craig
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 7/26/2007 appealing from the Office action mailed 12/14/2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,039,688

DOUGLAS ET AL.

3-2000

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

9a. Claims 1 and 4-8 are rejected under 35 U.S.C. 102(e) and (a) as being anticipated by Douglas et al (U.S. Patent 6,039,688).

As to claim 1, Douglas teaches all the claimed subject matter including:

A method for the storage and querying of social services¹ data in a knowledge base (e.g., fig. 59) that provides quantitative accountability for social services provided by a case worker to a client (e.g., fig. 1, #10, #14) via a navigable user interface (e.g., fig. 39-58);

Collecting information relating to defined social services and providers (e.g., col. 19, ll. 26-48, fig. 49-58, col. 19, l. 49 – col. 21, l. 5);

Collecting information relating to defined clients (e.g., patients, fig. 2-5);

Collecting information relating to defined client barriers to productivity (e.g., certain factors of health and behavior, fig. 5, and fig. 45, #306, #308);

¹ The term "social services" is being interpreted in light of the specification (pp. 4-5) as including patient care management. Therefore, Douglas teaches "social services."

Collecting information relating to defined goal-oriented client outcomes (e.g., certain aspects of behavior, fig. 45, #310)

Incorporating said collected information into a structured relational database (e.g., Abstract, col. 21, ll. 44-54);

Providing a graphical user interface with a plurality of controls each for initiating a pre-determined query for allowing a user to generate a report indicating reduction of said client barriers over time, thereby maintaining a quantitative accountability for social services (e.g., fig. 39-45).

As to claim 4, Douglas further teaches wherein the step of collecting information relating to defined client barriers to productivity further comprises selection of pre-defined itemized barriers to client productivity and for each itemized barrier a severity of said barrier (e.g., fig. 5, #51, fig. 45, scale from 1-4, note that these items and values have to be collected and selected first, before they can be stored/displayed see fig. 40, col. 18, ll. 5-35).

As to claim 5, Douglas further teaches wherein the step of providing a graphical user interface with a plurality of controls each for initiating a pre-determined query further comprises a control for initiating a pre-determined query for allowing a user to generate a report assessing progress in reducing severity or eliminating said client barriers over time (met as shown by figs. 39-45). Note that the controls have to initiate a query into the system for display/reporting of any desired data for proper operation of the system.

As to claim 6, Douglas further teaches periodically collecting information measuring reduction of said defined client barriers (fig. 45, col. 18, ll. 5-35, note the reduction of the barrier because the patient of fig. 45 is making positive progress).

As to claim 7, Douglas further teaches periodically collecting information specifying said case worker's efforts toward reducing said defined client barriers over time (e.g., col. 18, ll. 5-35, 34-65). Note that a case worker may make an effort to recommend changes to the program.

As to claim 8, Douglas further teaches further comprising at least one control for assessing reduction of said client barriers over time (see discussion above) and at least one control for initiating a pre-determined query for allowing a user to generate a report assessing effectiveness of said case worker's efforts toward reducing said defined client barriers over time. Note that the first mentioned control also assesses the effectiveness of the case worker's efforts to reduce client barriers. For example, as the case worker makes recommendations (e.g., col. 18, ll. 5-35, 34-65), a report showing reduced client barriers (fig. 45) shows positive progress, which is an assessment of the case worker's efforts. Also note that the "Print" button in fig. 45 is another control that initiates a query to allow generation of the report.

9b. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Douglas et al (U.S. Patent 6,039,688).

As to claim 9, Douglas teaches selecting from a predefined categorical list of progress elements (e.g., see fig. 45, "Behavioral Intention, Self-Efficacy, etc").

Douglas does not expressly teach "including educational advancement".

However, Douglas states that education and motivation is a two-pronged approach to behavior modification (col. 14, ll. 10-24). Douglas discloses motivational factors as part of behavior modification, discussed above, and fig. 45, #300-#304.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Douglas with the above, such that "educational advancement" is included in the list of progress elements. The motivation would be to allow a user to track progress in educational learning as it relates to the patient's recovery. This will facilitate providing a clearer picture of a patient's overall progress.

(10) Response to Argument

Appellant's arguments were fully considered. The claims contain functional limitations. All of the functional limitations in the claims are evaluated and considered, just like any other limitation of the claim, for what it fairly conveys to a person of ordinary skill in the pertinent art in the context in which it is used. MPEP 2173.05(g).

Furthermore, the broadest reasonable interpretation has been applied to the claims, and limitations from Appellant's specification are not read into the claims.

I. Regarding the rejection of claims 1 and 4-8 under 35 U.S.C. 102 (e) and (a) by Douglas et al (U.S. Patent 6,039,688)

A. Appellant argues that Douglas does not teach or suggest any manner or means of tracking the physician's effectiveness (or "provider accountability"), but only the patient's progress (Appeal Brief, p. 8, ll. 10-20, p. 9, ll. 1-4).

The examiner respectfully disagrees. The claim language is drawn to a broad concept of providing quantitative accountability of social services, provided by a case worker to a client. "Quantitative accountability of social services" is maintained by allowing a user to generate a report indicating reduction of client barriers over time" (claim 1, l. 10). As such, the claim language does not fairly convey to one of ordinary skill in the art Appellant's specific interpretations of "tracking the physician's effectiveness" or "provider accountability." Thus, these specific limitations are not read into the claims. Also see the grounds of rejection above.

B. Appellant argues that Webster defines "social service" as an activity designed to promote social well being, specifically, organized philanthropic assistance (as of the disabled and disadvantaged) (Brief, p. 8, 6th line from bottom).

Douglas complies with the above definition because the prior art is drawn to therapeutic behavior modification of a patient involving diet, exercise, group support, etc. (See e.g., fig. 1, #10, fig. 45, "social support").

Furthermore, Appellant's specification describes social services in the context of patient care management (p. 4, "Summary of the Invention", first 2 paragraphs). Note that Douglas is also drawn to patient care management (e.g., Abstract, ll. 4-11).

C. Appellant argues that Douglas tracks patient health milestones and not social services (Brief, p. 8, 2nd line from bottom).

The examiner respectfully disagrees. The claim language does not fairly convey the requirement of "tracking social services." Even if it did, note e.g., fig. 45, a quantitative tracking of "social support." Also note that Douglas tracks a doctor, and the doctor provides social services to the patient (see e.g., Abstract, fig. 1, #10, #12, letter to doctor, fig. 7, doctor's recommended therapy, fig. 47).

D. As to Appellant's argument on p. 9, l. 4 – p. 11, l. 1 of the Brief:

Appellant's arguments were fully considered, but it should be noted that limitations from the specification are not read into the claims. Appellant's discussion is drawn to specific features of the Invention that can only be found in the specification. Limitations from the specification are not read into the claims. Appellant's arguments primarily state that the examiner's interpretation of the claimed "client barrier to productivity" is unreasonable. Appellants cite Webster's definition and several examples from the specification (see footnote 1 of the Brief).

The examiner respectfully disagrees because the examiner's interpretation of "barrier" is consistent with Webster and Appellant's specification. In Douglas, the client's barriers include his behavioral barriers (see fig. 45). The behavioral obstacles include intention and self-efficacy. Furthermore, an obstacle may vary in intensity from a "lack of confidence" (signifying a large barrier) to a "certainty of an ability to change" (signifying little to no barrier). Furthermore, fig. 5 of Douglas shows several health

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barriers a client might have relating to diet and exercise (#51). The “barriers” of the prior art are barriers to the client’s “productivity” in health and well being (e.g., a person with no self-confidence is not as “productive” as a person with a lot of self-confidence).

Again, the claims do not require “tracking physicians” or “provider accountability” and are not interpreted as requiring these limitations.

E. As to Appellant’s argument on p. 11, l. 14 – p. 13, l. 2 of the Brief:

Appellant’s arguments primarily state that Douglas does not teach “generating a report indicating reduction of the client barriers over time,” and “for each itemized barrier, collecting a severity of the barrier.”

The examiner respectfully disagrees. Douglas teaches barriers and their severity as discussed above. Douglas also teaches generating reports indicating reduction of the barriers over time (see charts and graphs generally in fig. 39-45). Note, for example, in fig. 45, that the client’s obstacles in behavioral well-being have improved, and thus, the barriers have been reduced.

Again, the claims do not require “tracking physicians” or “provider accountability” and are not interpreted as requiring these limitations.

II. Regarding the rejection of claim 9 under 35 U.S.C. 103(a) by Douglas et al (U.S. Patent 6,039,688):

Appellants primarily argue that the modification of the prior art is improper. The examiner respectfully disagrees.

The claim requires, "selecting from a predefined categorical list of progress elements including any one from among the group consisting of job retention, wage increase, promotion, and educational advancement." Note that the claim requires only one element from the group. In this case, the examiner selected the "educational advancement" element.

As discussed above, Douglas teaches monitoring motivation during behavior modification (e.g., fig. 45). Furthermore, Douglas states that education and motivation is a two-pronged approach to behavior modification (col. 14, ll. 10-12). Therefore, it would have been obvious to one of ordinary skill in the art to modify the prior art so that it can additionally monitor educational advancement. One of ordinary skill in the art would have been motivated to provide a clearer picture of a patient's overall progress, because the modification would allow both the education prong (e.g., progress of a patient's learning about himself/herself) and the motivation prong to be monitored.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

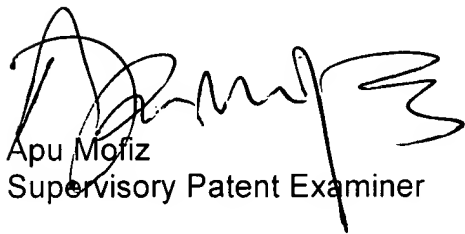
For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

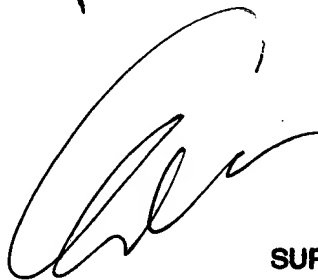


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